

BARNES, RICHARDSON & COLBURN

ATTORNEYS & COUNSELLORS AT LAW

1225 EYE STREET, N.W.

SUITE 1150

WASHINGTON, D.C. 20005

TELEPHONE: (202) 457-0300

FACSIMILE: (202) 331-8746

E-MAIL: barnes@brc-dc.com

<http://www.barnesrichardson.com>

475 PARK AVENUE SOUTH
NEW YORK, N.Y. 10016
TEL. (212) 725-0200
FACSIMILE (212) 889-4135

303 EAST WACKER DRIVE
SUITE 1100
CHICAGO, ILLINOIS 60601
TEL. (312) 565-2000
FACSIMILE (312) 565-1762

SPECIAL COUNSEL
ANSIS M. HELMANIS*

OF COUNSEL
DAVID O. ELLIOTT
GUNTER VON CONRAD

KARIN M. BURKE*
ROBERT F. SEELY

INTERNATIONAL TRADE ANALYSTS
TRACI L. GREVER
AMY H. WARLICK

*NOT ADMITTED IN D.C.

RUFUS E. JARMAN, JR.
JAMES S. O'KELLY
ROBERT E. BURKE
DONALD J. UNGER
MATTHEW T. McGRATH
SANDRA LISS FRIEDMAN*
BRIAN F. WALSH*
KAZUMUNE V. KANO*
F.D. VAN ARNAM, JR.*
LAWRENCE M. FRIEDMAN*
ALAN GOGGINS
ROBERT A. SHAPIRO

CAROLYN D. AMADON*
STEPHEN W. BROPHY
MICHAEL J. CHESSLER
TSIONA COHEN*
JAMES B. DORAN*
DAVID G. FORGUE*
YVONNE M. HILST
BEATA KOLOSA*
KEVIN W. LEONARD*
SHANNON N. RICKARD*
WM. RANDOLPH RUCKER*
JOSEPH M. SPRARAGEN*
JANE E. WELSH*
JOHN ZINCANI*

January 15, 2002

Ms. Gloria Blue
Executive Secretary
Trade Policy Staff Committee
Office of the United States Trade Representative
600 17th Street, N.W.
Washington, D.C. 20508

**Re: Response to Comments in Connection with Inv. No. TA-201-73
(Certain Steel Products)**

Dear Madam Secretary:

On behalf of The Williams Companies, Inc. and Coflexip Stena Offshore, Inc., enclosed please find responses to written comments submitted in accordance with 66 Fed. Reg. 54321 (October 26, 2001) regarding the above-referenced matter. These comments are filed pursuant to the United States Trade Representative's October 26, 2001 and December 28, 2001 Federal Register Notices (66 Fed. Reg. 54321; 66 Fed. Reg. 67349). Please do not hesitate to contact us with any questions regarding this submission.

Respectfully submitted,
BARNES, RICHARDSON & COLBURN

By:

Robert A. Shapiro

Counsel to: The Williams Companies, Inc.
Coflexip Stena Offshore, Inc.

EXECUTIVE SUMMARY

- Any trade restrictive remedy must treat large diameter line pipe (“LDLP”) separately in order to avoid product shifting between LDLP and the myriad of other commodity-grade welded tubular products included in the International Trade Commission’s Category 20. **A remedy imposed on all welded tubular products, inclusive of LDLP, encourages product shifting and will damage the domestic industry.**
- By virtue of the recently imposed antidumping order against circular welded large diameter line pipe from Japan, the Japanese Respondents are largely precluded from shipping LDLP to the U.S. market. As a result, Japanese, and perhaps Mexican, producers have an incentive to ship to the United States welded tubular products other than LDLP.
- Product shifting between LDLP and other welded tubular products by the Japanese and Mexican producers will result in an **additional supply to the U.S. market of approximately 247,000 of welded tubular products other than LDLP**. This additional supply of non-LDLP welded tubular products imports will injure the vast majority of domestic welded tubular products producers.
- A country-specific quota allocation only exacerbates the problems associated with product shifting between LDLP and non-LDLP welded tubular products as the Japanese, and perhaps Mexican, producers have a guaranteed quota allocation that can be used to sell welded tubular products other than LDLP.
- A separate remedy for LDLP eliminates the chance of product-shifting.
- A remedy applied to LDLP must consider the specific threat of injury to LDLP producers. The Commission’s decision indicates that LDLP is not a source of the threat of injury experienced by the domestic producers of Category 20 products. Imported LDLP is generally sold at higher average unit values and the demand for LDLP is surging with growth in demand likely to continue.
- Certain LDLP products must be excluded from any remedy applied to LDLP. Certain LDLP used in deep water and other harsh environments is not produced in the United States. The domestic producers participating in this investigation can not produce LDLP in excess of 26” in outside diameter. These producers, therefore, have no grounds to object to the **exclusion of all LDLP with an outside diameter greater than 26”**.
- Certain steel plate used in the manufacture of LDLP must be excluded.
- Any remedy that affects LDLP must include a short supply mechanism to minimize the imposition of any additional risks on the production of the domestic pipelines needed under the President’s National Energy Policy.

TABLE OF CONTENTS

I. OVERVIEW	2
II. NO TRADE RESTRICTIVE REMEDY SHOULD BE APPLIED TO LDLP	3
A. THE DOMESTIC INDUSTRY PRODUCING LDLP IS NOT BEING INJURED OR THREATENED WITH INJURY BY IMPORT COMPETITION	3
1. <i>The ITC Has Determined that Imports of LDLP from Countries Other Than Japan Have Not Contributed to Material Injury</i>	4
2. <i>The ITC Decisions Show that Imports of LDLP Have Not Contributed to the Threat of Injury Found</i>	4
B. ANY INJURY, OR THREAT THEREOF, IS ADEQUATELY REMEDIED BY THE RECENT ANTIDUMPING ORDER AGAINST LDLP FROM JAPAN	5
C. AS THE DOMESTIC INDUSTRY PRODUCING LARGE DIAMETER LINE PIPE IS NOT INJURED OR THREATENED WITH INJURY THE IMPOSITION OF A TRADE-RESTRICTIVE REMEDY IS INAPPROPRIATE.....	6
III. ANY TRADE RESTRICTIVE REMEDY SHOULD CONSIDER LDLP SEPARATELY..	7
A. A TRADE-RESTRICTIVE REMEDY APPLIED TO WELDED TUBULAR PRODUCTS AS A WHOLE WILL DISPROPORTIONATELY NEGATIVELY IMPACT LDLP AND WILL NOT BENEFIT THE VAST MAJORITY OF DOMESTIC WELDED TUBULAR PRODUCTS PRODUCERS	7
1. <i>Unlike Other Products of Category 20, LDLP is High Priced, High Weight and Project Oriented.</i>	8
2. <i>By Virtue of a Recently Imposed Antidumping Order, Japanese Respondents Will Be Forced to Ship Welded Tubular Products Other Than LDLP</i>	9
B. A COUNTRY-SPECIFIC QUOTA COMPOUNDS THE PROBLEMS ASSOCIATED WITH A SINGLE TRQ ON ALL WELDED TUBULAR PRODUCTS OF CATEGORY 20	10
C. REMOVING LDLP FROM ANY TRADE-RESTRICTIVE REMEDY IMPOSED ON PRODUCTS OF CATEGORY 20 ELIMINATES TRADE DISTORTION AND IMPROVES THE REMEDY’S EFFECTIVENESS	11
IV. SHOULD A TRADE-RESTRICTIVE REMEDY BE IMPOSED AGAINST LDLP, THE REMEDY SHOULD CONSIDER LDLP SEPARATELY AND MUST BE MANAGED ON A GLOBAL, NON-COUNTRY-SPECIFIC BASIS	12
A. A TRADE-RESTRICTIVE REMEDY AFFECTING LDLP MUST NOT REDUCE AVAILABILITY OF THE PRODUCT BELOW 2001 IMPORT LEVELS.....	12
B. A TRADE-RESTRICTIVE REMEDY APPLIED TO LDLP MUST BE ADMINISTERED ON A GLOBAL BASIS	13

V. WHILE THERE IS NO NEED FOR TRADE RESTRICTIONS ON LDLP, ANY TRADE-RESTRICTIVE REMEDY MUST EXCLUDE CERTAIN LDLP PRODUCTS AND CERTAIN STEEL PLATE USED TO MAKE LDLP	14
A. LDLP USED IN DEEP WATER AND OTHER HARSH ENVIRONMENTS MUST BE EXCLUDED FROM ANY TRADE RESTRICTIVE REMEDY	14
B. ALL LDLP WITH AN OUTSIDE DIAMETER IN EXCESS OF TWENTY-SIX INCHES, REGARDLESS OF WALL THICKNESS, MUST BE EXCLUDED FROM ANY TRADE-RESTRICTIVE REMEDY	15
C. CERTAIN STEEL PLATE MUST BE EXCLUDED FROM ANY TRADE-RESTRICTIVE REMEDY	15
VI. SHOULD A TRADE-RESTRICTIVE REMEDY BE IMPOSED ON LDLP, A SHORT SUPPLY MECHANISM MUST BE INCLUDED	15
VII. CONCLUSION	16

**BEFORE THE
TRADE POLICY STAFF COMMITTEE
OFFICE OF THE
UNITED STATES TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT**

In the Matter of Review of the Determination of the
U.S. International Trade Commission in
Certain Steel Products - Investigation No. TA-201-73

**RESPONSES TO COMMENTS REGARDING
PROPOSED ACTIONS UNDER SECTION 203**

These responses to various comments filed in the above-entitled investigation are filed pursuant to 66 Fed. Reg. 54321 (October 26, 2001) and 66 Fed. Reg. 67349 (December 28, 2001), on behalf of The Williams Companies, Inc., (“Williams”), and Coflexip Stena Offshore Inc., (“Coflexip”), and specifically concern the effect of any trade restrictive remedy on the importation of **large diameter line pipe**, (“LDLP”), and certain high-grade steel slab and plate used in the manufacture of LDLP.

As stated in our previous correspondence, Williams, as a major provider of pipelines in the United States, is keenly interested in the availability of line pipe for the development, maintenance, and expansion of the U.S. energy infrastructure. Coflexip engineers, procures and installs pipelines that serve some of the most promising North American oilfields in the deep waters of the Gulf of Mexico. These pipelines depend on high-quality thick walled LDLP that can not be made by domestic producers, are vital for America’s energy independence, and would be severely impacted by any trade restrictive remedy.

I. OVERVIEW

At the outset we note that, to the best of our knowledge, two of the most important domestic producers of LDLP, Berg Steel and Napa Pipe, have not submitted comments regarding what action, if any, the President should take under section 203(a) of the Trade Act of 1974. These companies are operating at or near full capacity, with current and projected orders scheduled to dominate or exceed their capacity for the next two-three years. Other domestic LDLP producers, American Steel Pipe Division and Stupp Corporation, have participated in this investigation, but their production capabilities are limited to only the smaller sizes of LDLP, *i.e.* up to 26” in outside diameter, and their comments are limited to a discussion of welded pipe other than LDLP, clearly indicating that their primary concern is with these products and not LDLP.¹

Both the Japanese and Korean respondents have suggested that the appropriate remedy for the overall category of welded tubular products other than OCTG is a tariff-rate quota (“TRQ”) as recommended by the majority of commissioners on the International Trade Commission, with the quota being allocated on a country-specific basis. As discussed in our previous correspondence, the application of this remedy to the entire category 20 will disproportionately negatively impact both the domestic and foreign producers of LDLP, will negatively impact producers of welded tubular products other than LDLP, and will compromise the ability of the United States pipeline producers to maintain and expand the U.S. energy infrastructure. In this document we elaborate on why the allocation of a TRQ on a country-specific basis will only further the ineffectiveness and inadequacies of the proposed remedy, will damage the U.S. pipeline industry, and will not benefit the domestic industry.

¹ American Steel Pipe Division has stated in conversation that they have no objection to the exclusion of LDLP with an outside diameter greater than 26”.

The inequities and ineffectiveness inherent in the establishment of a trade restrictive measure covering all welded tubular products inclusive of LDLP, requires a separate remedy for LDLP from the rest of this category. LDLP differs from the other products in Category 20.

1. LDLP is imported to fulfill project needs rather than to fill distributor inventories;
2. There is a dearth of domestic capacity for the production of LDLP;
3. The domestic producers of LDLP are not being injured or threatened with injury because of import competition;
4. LDLP is vital for the maintenance and expansion of the U.S. energy infrastructure; and
5. The domestic industry is relatively disinterested in the imposition of a trade restrictive remedy on LDLP.

These factors necessarily lead to the conclusion that no trade restrictive remedy should be imposed that affects LDLP. If, however, the President finds that it is necessary to impose a trade-restrictive remedy on LDLP, such remedy should consider LDLP separately, should be applied globally, rather than on a country specific basis, and should not restrict imports below those for the most recent period, 2001.

II. NO TRADE RESTRICTIVE REMEDY SHOULD BE APPLIED TO LDLP

A. The Domestic Industry Producing LDLP is not Being Injured or Threatened with Injury by Import Competition

The ITC determined that the category of welded tubular products other than OCTG was not being injured by import competition, but was only threatened with injury. A careful reading of the ITC decision in this case, as well as in the recent antidumping investigation, however, illustrates that LDLP is not a source of injury or threat of injury to the domestic industry producing LDLP and that this product was included in the remedy recommendation merely because of an error in the data collection methodology.

1. The ITC Has Determined that Imports of LDLP from Countries Other Than Japan Have Not Contributed to Material Injury

The ITC recently determined that imports of LDLP from countries other than Japan have not contributed to the lower standard of injury required under Title VII. In December the Commission stated that:

... [T]here were large volumes of non-subject imports present in the U.S. market during the period examined, especially in 2000. However, ... there are some indications in the record that these non-subject imports were sold primarily for project uses, and not to distributors, where the domestic industry suffered its most significant loss of sales. We also note that the average unit value of non-subject imports in 2000 (the year in which the domestic industry's condition deteriorated) was considerably higher than that of subject imports, and in interim 2001, the average unit value of non-subject imports was considerably higher than that of the domestic like product. Moreover, the trends in the average unit values of subject and non-subject imports was considerably higher than that of the domestic like product. . . . Thus, the presence of nonsubject imports [*i.e.* imports from countries other than Japan (and Mexico)] does not detract from our finding of . . . [the] price depressing effects caused by the subject imports, particularly in sales to distributors.²

Therefore, in addition to not causing serious injury, imports of LDLP from countries other than Japan have not contributed to material injury to the domestic producers of LDLP. While it may be a philosophical point to consider whether imports that do not cause material injury may be the cause of a threat of serious injury, the Commission's decision in the current matter, when read together with the decision in *Certain Circular Welded Large Diameter Line Pipe from Japan*, clearly shows that the importation of LDLP from countries other than Japan have not threatened and do not threaten the domestic industry with serious injury.

2. The ITC Decisions Show that Imports of LDLP Have Not Contributed to the Threat of Injury Found

As stated above, the Commission found that **imports** of LDLP from countries other than Japan **have a higher average unit value** than either the domestic products or other imported

² *Certain Circular Welded Large Diameter Line Pipe from Japan*, Inv. No. 731-TA-919 (Final), USITC Pub. 3464 (November 2001) at 21 (emphasis added).

LDLP.³ It is difficult to understand how the higher priced product can threaten injury to the domestic industry.

In the Section 201 investigation, the Commission noted that the demand for LDLP is growing, and is likely to grow in the near future.⁴ The two largest producers of LDLP, Berg Steel and Napa Pipe, currently have contracts for projects that will occupy the companies for multiple years, with other projects scheduled that can not possibly be built with domestically sourced LDLP alone. It is also difficult to understand how such increased demand and capacity utilization can occur at the same time that the industry is threatened with injury.

The Commission was cognizant of these demand trends, but explained them away by saying that the increased demand for LDLP does not offset the demand trends for all welded tubular products.⁵ This comment, aside from indicating that LDLP is a different like product from the other welded products considered in this investigation, indicates that the only reason that LDLP is included in the remedy recommendation is that, in spite of recent precedent, it was included in the overall category for purposes of data collection.⁶

B. Any Injury, or Threat Thereof, is Adequately Remedied by the Recent Antidumping Order Against LDLP from Japan

Recently, an antidumping duty of 30.8% was imposed on the importation of LDLP from Japan. This dumping order is likely to remove up to 247,000 tons of LDLP from the domestic

³ *Id.*

⁴ Commission Majority at 176. (“We agree with respondents that available information indicates that there has been a recent increase in demand for large diameter line pipe and that projections are for continued growth due to rising demand for pipeline projects.”)

⁵ *Id.* (“However, large diameter line pipe is only a portion of this industry . . . Indeed, even with a recent rise in large diameter line pipe demand, overall demand for covered welded tubular products has been relatively constant on a full year basis since 1998.”)

⁶ The Commission failed to explain why it deviated from its precedent regarding like product.

market.⁷ This represents 36% of the LDLP imported into the United States in 2000. The removal of such a large supply of LDLP is certain to offset any threat of injury that the Commission might have found with respect to this product, if the Commission had remained consistent with its precedent and investigated LDLP as a separate like product.

C. As the Domestic Industry Producing Large Diameter Line Pipe is Not Injured or Threatened with Injury the Imposition of a Trade-Restrictive Remedy is Inappropriate

Pipelines require the use of pipe of different grades. Some of this pipe is not produced in the United States, or is produced in insufficient quantities to meet demand. Furthermore, pipelines are extremely capital intensive. Line pipe is ordered specifically for certain projects, and must be delivered on a designated schedule or costs increase rapidly. Failure to meet the delivery schedule will result in substantial penalties. More than one line pipe producer has been forced to acquire line pipe or steel plate from foreign sources in order to meet the delivery schedule. Perhaps this, together with the lack of injury or threat thereof to the domestic industry, is why one is hard pressed to find any mention of line pipe in any of the domestic industry's filings with the TPSC.

The decision of the Commission that LDLP is part of Category 20 for purposes of this investigation, and that domestic producers of Category 20 products were threatened with injury by import competition, does not bind the President in proclaiming the appropriate remedy. The proclaimed remedy must balance the trade restrictions with the benefit to be provided. As discussed above, the domestic producers of LDLP are not injured or threatened with injury from domestic competition. Furthermore, the imposition of a trade restrictive remedy under this proceeding will be in addition to the recent imposition of an antidumping order on more than 30% of imported product. Under these circumstances, any trade-restrictive remedy will be excessive.

⁷ This figure is based on year 2000 imports of LDLP and assumes that a similar dumping order will be imposed on shipments of LDLP from Mexico.

The Committee on Pipe and Tube Imports (“CPTI”) argues that the remedy imposed should equal the remedy imposed on steel plate and sheet as this is the primary input in the production of welded tubular products. This argument has no basis in law or policy. First, the only remedy authorized by the statute is one that offsets the injury or threat of injury found. The statute does not authorize the imposition of a remedy that offsets the injury that might be caused by the imposition of a remedy on an entirely different product. Second, CPTI’s argument is the first step on a very slippery slope. CPTI provides no guidance in determining which downstream products should be subject to the remedy. Should one, for example, subject automobile door panels to an additional duty since they are clearly a downstream product of Steel plate? Under CPTI’s reasoning, without such a remedy foreign producers would product shift to the production of these door panels in order to avoid the higher duty on steel plate or sheet.

III. ANY TRADE RESTRICTIVE REMEDY SHOULD CONSIDER LDLP SEPARATELY

Until this investigation, the ITC has regularly considered LDLP to be a separate like product. The majority decision of the ITC provides substantial evidence as to why a separate like product determination is prudent. LDLP is subject to different demand trends, different production facilities, different methods of distribution, and different HTSUS classifications. The dissimilarities between LDLP and the other products included in Category 20 necessarily results in the need for dissimilar remedy treatments.

A. A Trade-Restrictive Remedy Applied to Welded Tubular Products As A Whole Will Disproportionately Negatively Impact LDLP and Will Not Benefit the Vast Majority of Domestic Welded Tubular Products Producers

Category 20 includes a wide variety of welded tubular products other than OCTG. Included within this category are various types of commodity-grade standard, mechanical and structural parts

that are generally sold through distributors and retail channels, as well as high-value LDLP that is manufactured for specific pipeline projects and sold directly to the pipeline producer. As such, it is impossible to formulate a single trade-restrictive remedy that will benefit those producers most threatened with injury while not excessively burdening LDLP and pipeline production.

1. Unlike Other Products of Category 20, LDLP is High Priced, High Weight and Project Oriented.

Any trade-restrictive remedy must reflect a recognition of the disparate impact that it is likely to have on the various products included within the scope of the remedy so as to accurately balance the intended benefit with the potential costs. LDLP is the “odd-man-out” in Category 20. Of all the products investigated by the ITC, LDLP is the only product for which the ITC recognized specific products for exclusion. LDLP is sold on a project, or as-needed, basis directly to pipeline producers and is not sold through distributorships. Generally, project line pipe is heavier and is sold at higher value than the other products in Category 20. Any trade-restrictive remedy must consider these factors or it will have a disproportionate impact on LDLP, the sector of this category in least need of a remedy.

Any remedy based on the imposition of a quota, including a tariff-rate quota as proposed by the majority at the ITC, would be quickly filled by imports of commodity grade product into inventories, as foreign producers push early sales to assure that their product enters the U.S. market without being assessed additional duties. Due to the project nature of LDLP distribution, LDLP producers cannot enjoy the benefit of front-loading their shipments at the beginning of the quota period to ensure that quota will be available and that, in the case of a TRQ, additional duties are not assessed. Additionally, being larger and heavier than the other products included in Category 20, any single shipment of LDLP is more likely to be the shipment that exceeds the quota limitation. Due to its high value, additional duties on LDLP, whether assessed pursuant to a TRQ or to a flat

tariff increase, will be exorbitant, and will likely result in a loss to the domestic pipeline industry and the U.S. energy infrastructure.

2. By Virtue of a Recently Imposed Antidumping Order, Japanese Respondents Will Be Forced to Ship Welded Tubular Products Other Than LDLP

The problems associated with a single trade-restrictive remedy on all category 20 products, inclusive of LDLP, are amplified when one considers that the Japanese Respondents have an incentive to product-shift from shipping LDLP to shipping welded tubular products other than LDLP. As a result of a recent antidumping investigation, shipments of LDLP from Japan are subject an antidumping duty of 30.8%,⁸ a rate high enough to largely preclude Japanese producers from the U.S. LDLP market. Japanese producers who are capable of selling welded tubular products other than LDLP will naturally try to sell to its U.S. customers these other products in order to make up for any loss of sales of LDLP.

Under ordinary circumstances, this product-shifting from LDLP to other welded tubular products will result in increased competition for these other products. The impact of product shifting, however, will be exaggerated under a quota system that includes both LDLP and other welded tubular products as there is an additional incentive to ship goods before the quota is filled.

⁸ The Japanese Respondents were recently found to be dumping LDLP on the U.S. market. Based on a review of sales during 2000, the International Trade Administration found a dumping margin of 30.8%. 66 Fed. Reg. 47172 (September 11, 2001). This dumping margin is likely to exclude Japanese LDLP from the U.S. market. In fact, Japanese sales of LDLP dropped precipitously during the antidumping investigation. This drop was in apparent anticipation of the institution of an antidumping order.

B. A Country-Specific Quota Compounds the Problems Associated with A Single TRQ on All Welded Tubular Products of Category 20

The Japanese Respondents have argued for a tariff-rate quota based on imports of welded tubular products in the year 2000, with the quota allocated on a country specific basis.⁹ Should this recommended remedy be adopted, the Japanese would be awarded a share of the import market that is based on an inflated volume of imports dumped into the United States in 2000. As discussed above, however, the Japanese¹⁰ Respondents are largely precluded from selling LDLP in the U.S. market as current sales face an antidumping duty of 30.8%.

The remedy proposed by the Japanese Respondents would result in either (1) a wasteful and inefficient use of the quota, or (2) a flood of Japanese welded tubular products other than LDLP into the U.S. market.¹¹ Under the first possibility, the Japanese Respondents will be unable to fully utilize their quota allocation since the dumping order is likely to make Japanese LDLP uncompetitive in the U.S. market. This structural underutilization of the quota effectively results in a reduction of the quota below that which is recommended. Given the fact that the domestic pipe industry is not injured, but merely threatened with injury, such reduction of the quota is unwarranted.

⁹ See, *Comments of Kawasaki Steel Corporation, Nippon Steel Corporation, NKK Corporation, and Sumitomo Metal Industries, LTD. On the Remedy Recommendation of the U.S. International Trade Commission Regarding Import Relief Under Section 203 of the Trade Act of 1974 In Inv. No. TA-201-73 for Welded Tubular Products Other Than OCTG (Category 20)*, Filed By: Arent Fox Kinter Plotkin & Kahn, PLLC (January 4, 2002). See also, *Comments of Korean Iron and Steel Association*. Filed by: Kaye Scholer LLP (January 4, 2002).

¹⁰ Mexican shipments of LDLP are currently being investigated for dumping. In all likelihood, Mexican producers will also be effectively precluded from selling LDLP in the U.S. market.

¹¹ We do not challenge the Korean Respondents' assertion that a country-specific quota will avoid a "rush to the dock." We note, however, that given the disparity of the products included in this category, and given the recent antidumping order against Japan, the country-specific quota allocation will have a negative impact on the majority of the domestic welded tubular products industry.

The second possibility is equally unjustified and will result in an injury to the domestic pipe industry. In the year 2000, the Japanese, and perhaps Mexicans,¹² were dumping LDLP and unfairly increasing their volume of shipments to the U.S. Yet the Japanese argue for a country specific allocation of the quota based on year 2000 imports. This proposal, if adopted, would grant the Japanese Respondents a quota allocation based on this excess volume of shipments. Furthermore, since the Japanese are unable to ship LDLP into the U.S. market, this quota would essentially be allocated entirely to products other than LDLP. Based on the shipments of LDLP from Japan and Mexico into the United States in 2000, this would result increased imports of 247,000 tons of other welded tubular products into the United States. At the same time, this quantity of LDLP will be unavailable to U.S. pipeline producers, thereby reducing the supply of LDLP by 247,000 tons.

Under the Japanese proposal, therefore, the majority of the domestic welded tubular products industry, *i.e.* the 70% of the industry that does not produce LDLP, would be injured as the entire Japanese portion of the quota would be used in the shipment of welded tubular products other than LDLP. At the same time, the supply of LDLP would be reduced by an equal amount. Such a solution is inapposite to the facts of this case; it would increase the supply of the Category 20 products for which there is excess domestic capacity and the greatest threat of injury, and will reduce the supply of the Category 20 product for which there is insufficient domestic capacity.

C. Removing LDLP From Any Trade-Restrictive Remedy Imposed on Products of Category 20 Eliminates Trade Distortion and Improves the Remedy's Effectiveness

The provision of a separate remedy for LDLP removes the trade distorting effect of the imposition of a trade-restrictive remedy on Category 20 products, as there will be no incentive to

¹² The International Trade Commission is investigating dumping with respect to certain circular welded large diameter line pipe from Mexico, but has yet to issue a decision.

product shift. Based on the remedy recommendation of the ITC, the TRQ quota volume for all Category 20 products other than LDLP would be 2,085,400 short tons in the first year.¹³ Williams and Coflexip take no position as to whether this non-LDLP quota should be allocated on a country specific basis.

IV. SHOULD A TRADE-RESTRICTIVE REMEDY BE IMPOSED AGAINST LDLP, THE REMEDY SHOULD CONSIDER LDLP SEPARATELY AND MUST BE MANAGED ON A GLOBAL, NON-COUNTRY-SPECIFIC BASIS

No trade-restrictive remedy is warranted with respect to LDLP. As discussed above, however, if LDLP is to be subject to a trade restrictive remedy, the formulation of a common remedy for all welded tubular products, inclusive of LDLP, will be ineffectual, will disproportionately affect LDLP and domestic pipeline producers, and will excessively distort trade in welded tubular products. Therefore, any remedy must consider LDLP separately.

A. A Trade-Restrictive Remedy Affecting LDLP Must Not Reduce Availability of the Product Below 2001 Import Levels

In this investigation, the ITC did not specifically investigate whether the domestic producers of LDLP are being injured or threatened with injury by import competition. As discussed above, a careful reading of the Commission's decisions in both the present 201 investigation and the recent antidumping investigation concerning circular welded large diameter line pipe from Japan indicates that neither injury nor threat is present with respect to LDLP. The Commission, however, included LDLP within a category of products for which a threat of injury was found. The following, therefore, proposes a formulation of a separate remedy for this product.

¹³ This is based on the recommendation of Commissioners Koplan and Miller (2.60 million short tons minus 514,600 short tons (quantity of LDLP imported in the year 2000). Under the recommendation of Commissioners Okun and Hillman the quota level would be set at 1,054,843 short tons in the first year, which represents the recommended quota limit, 1,400,443 short tons minus the non-NAFTA imports of LDLP – 345,600 short tons).

Assuming that the ITC's threat determination is applicable to LDLP, any trade restrictive remedy must be limited so as to prevent imports from rising, but not to reduce the level of import competition.¹⁴ Given the project nature of LDLP demand, it is difficult to find a representative period for the determination of an appropriate quota. As discussed above, 2000 import figures are distorted by the unfair trade practices of Japan, and perhaps Mexico.

The 2001 import figures are the most representative. These import statistics illustrate the project-nature of the LDLP market and the fact that a single large project can suddenly increase demand. 2001 import statistics reflect imports by domestic pipe producers of both LDLP and pipe needed to meet the delivery schedule for the Gulfstream project.¹⁵ As demonstrated by Berg's experience in 2001, an inability of the domestic industry to acquire pipe and steel plate from foreign sources in order to meet the demands of the domestic pipeline industry will have a detrimental effect on the domestic producers of LDLP and will result in a further tightening of the U.S. energy market.

B. A Trade-Restrictive Remedy Applied to LDLP Must be Administered on a Global Basis

Pipeline producers need maximum flexibility in acquiring line pipe, and must be able to purchase LDLP on a global basis. Every element of any trade-restrictive remedy must be carefully considered, and must be clearly required to prevent imports from rising to the level that would cause serious injury. Not all LDLP producers can produce all grades, diameters and wall thicknesses of

¹⁴ See, Commission's Majority Determination at 402. ("Given that we have found threat of serious injury, the intent of our recommended remedy is to prevent imports from rising to a level that would cause serious injury.")

¹⁵ The 2001 trade statistics include the quantity of LDLP that was manufactured in Florida with U.S. labor, under foreign trade zone procedures. See, Pre-Hearing Injury Brief filed on behalf of the European Steel Tube Association, (September 10, 2001) at page 7. Submission to the International Trade Commission of Berg Foreign Trade Zone data filed on behalf of Europipe (October 9, 2001). Testimony of Mr. Ronald Hoepner, Vice President The Williams Companies, Inc. Remedy Hearing Transcript at page 916. November 8, 2001.

LDLP. For any given pipeline project, a pipeline producer must choose the LDLP manufacturer based on their capability for producing the given specification of line pipe within the given schedule. The administration of any quota affecting LDLP on a country-specific basis will unnecessarily complicate the line pipe procurement process and unnecessarily burden the domestic pipeline industry. It is difficult to imagine any benefit to the domestic industry that will result from creating the further complications in the procurement and importation process that will result from the derivation of a country-specific quota on LDLP.

V. WHILE THERE IS NO NEED FOR TRADE RESTRICTIONS ON LDLP, ANY TRADE-RESTRICTIVE REMEDY MUST EXCLUDE CERTAIN LDLP PRODUCTS AND CERTAIN STEEL PLATE USED TO MAKE LDLP

A. LDLP Used in Deep Water and Other Harsh Environments Must Be Excluded From Any Trade Restrictive Remedy

The ITC recommended that certain specifications of LDLP be excluded from any trade restrictive remedy.¹⁶ This is the only instance where the ITC recognized the need for specific exclusions. While this exclusion recommendation does not sufficiently address the concerns of the domestic pipeline industry, it recognizes that the LDLP industry differs from any other product considered in this investigation.

The LDLP included in the ITC's recommended exclusions are used in deep water, and other environmentally harsh situations. This pipe must be manufactured to the highest specifications to protect against serious failures. This pipe is not produced in the United States, and no U.S. producer has expressed any objection to the exclusion of these products from any trade-restrictive remedy.

¹⁶ See, Majority at 397, n. 123.

B. All LDLP with an Outside Diameter in Excess of Twenty-Six Inches, Regardless of Wall Thickness, Must Be Excluded From Any Trade-Restrictive Remedy

While the LDLP exclusions recommended by the ITC are essential for America's ability to benefit from the vast oil and gas reserves in the deep waters of the Gulf of Mexico and from the North Slope in Alaska, these are overly narrow. Without broader exclusions, the expansion of the Country's energy infrastructure, as recommended by the President's National Energy Policy, may be jeopardized. The only producers of LDLP to take a formal position concerning welded tubular products in this investigation are American Pipe Division and Stupp Corporation. These companies are incapable of producing LDLP with an outside diameter greater than 26 inches. We, therefore, propose that any restrictive remedy be limited to pipe with an outside diameter less than or equal to 26 inches and that all welded LDLP with an outside diameter in excess of 26 inches, regardless of wall thickness, be excluded from any remedy.

C. Certain Steel Plate Must Be Excluded From Any Trade-Restrictive Remedy

As discussed in our previous correspondence, certain steel plate must also be excluded from any trade restrictions. This plate is a required input for domestic producers of LDLP and is unavailable from domestic mills. As discussed above, a significant portion of the product recorded in 2001 as imports of LDLP are actually imports of steel plate used to manufacture LDLP in Florida under foreign trade zone procedures.

VI. SHOULD A TRADE-RESTRICTIVE REMEDY BE IMPOSED ON LDLP, A SHORT SUPPLY MECHANISM MUST BE INCLUDED

Any trade-restrictive remedy that affects LDLP must include a short supply mechanism that creates the minimal administrative burden on the domestic pipeline industry and adequately addresses the long lead times for domestic pipeline projects. Such a short supply mechanism is

required regardless of the type of trade restrictions implemented so as to provide greater predictability in the line pipe procurement process.

Pipelines undergo an arduous regulatory process that requires many years of planning and the acquisition of land rights. Williams currently has projects planned with initiation dates in 2006. Procurement contracts are being considered for pipeline projects that are not scheduled to start production until 1st quarter 2004. The imposition of a trade restrictive remedy that may affect these plans creates significant additional risk in the pipeline production process, without necessarily providing any additional benefit to the domestic LDLP industry. A short supply mechanism is necessary to moderate this additional risk and to add predictability to the procurement process.

A short supply mechanism, therefore, must be forward-looking and provide the certainties necessary for the pipeline business. While it may be appropriate to impose a trade-restrictive remedy in order to offset any threat of injury found, the institution of additional business uncertainty cannot benefit domestic producers of LDLP or the U.S. economy as a whole.

VII. CONCLUSION

The record of this investigation indicates that no trade-restrictive remedy is justified with respect to LDLP. This product was included in the ITC's remedy recommendation merely as a residue of the Commission's data collection decisions. If, however, a trade restrictive remedy is imposed that affects LDLP, such a remedy must consider LDLP separately. LDLP must not be subject to the same quota pool as the other products included in Category 20. A separate remedy affecting LDLP must allow for the project nature of the demand for this product, must exclude certain large diameter line pipe and steel plate that is not produced in the United States, or is produced in an insufficient quantity to meet domestic demand, and must include a short-supply mechanism that allows for the predictability and planning required by the U.S. pipeline industry.

Respectfully submitted,

BARNES, RICHARDSON & COLBURN

By: _____

Robert A. Shapiro
Matthew T. McGrath
Gunter von Conrad
Michael J. Chessler
Stephen W. Brophy
James B. Doran

Counsel to: The Williams Companies, Inc.
 Coflexip Stena Offshore Inc.